
(2002) 02 DEL CK 0029
In the Delhi High Court
Case No : CWP No. 1677 of 2000

Nanak Chand

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 07-02-2002

Acts Referred:

Citation : (2002) 96 DLT 839 : (2002) 63 DRJ 387 : (2003) 1 SLJ 80(2)

Hon'ble Judges : S.B. Sinha, C.J.;A.K. Sikri, J

Bench : Division Bench

Advocate : Kameshwar Singh, for the Appellant; Jagjit Singh, for the Respondent

Final Decision : Dismissed

Judgement

S.B. Sinha, C.J.—This writ petition is directed against a judgment and order dated 22nd September 1999 passed by the Central Administrative Tribunal ("CAT" for short) Principal Bench in OA No. 2519/94 whereby and whereunder the original application filed by the petitioner was dismissed.

2. The fact of the matter lies in a very narrow compass.

3. Claiming the same pay and arrears as of the respondents No. 4 and 5, the petitioner filed an original application which was marked as OA No. 1294/89. The learned Tribunal came to the conclusion that he had been denied reasonable opportunity to appear at the trade test resulted in his belated promotion as a result whereof the persons who were junior to him got promotion as also the higher pay. However, having regard to the fact that the petitioner approached the Tribunal after a long time, his claim for arrears of pay or monetary benefits had been denied. The said application was allowed by the Tribunal with the direction that the petitioner's pay should be determined as if he had passed the trade test along with his juniors in February 1976 with all consequential benefits with retrospective effect corresponding to the dates of promotion.

4. Admittedly, said the judgment and order of the learned Tribunal was

implemented.

5. However, thereafter another seniority list was prepared in respect of the master craftsman and respondents No. 4 and 5 were promoted in the said post prior to the petitioner. Pursuant to and in furtherance of order dated 22nd October 1991, he claimed seniority over the Respondent No. 4 and 5. Having regard to the decision of the Tribunal dated 22nd October 1991 in the said OA No. 1294/89, the petitioner filed another Application claiming seniority over the respondents No. 4 and 5 on the post of master craftsman w.e.f. 1st March 1993. The said petition was dismissed on the ground that the petitioner, although qualified the suitability test for promotion on 16th December 1994, but failed to appear therefore.

6. The learned counsel appearing on behalf of the petitioner would urge that having regard to fact that the petitioner was declared senior, his position in the seniority list ought to have been shown w.e.f. February 1976 instead of as on 1st March 1976 and in that view of the matter, the learned Tribunal must have been held to have erred in passing the impugned order.

7. The learned counsel for the respondent on the other hand, would contend that the test held for the purpose of promotion to the post of master craftsman was different and as the petitioner failed to appear in the said test, he cannot be held to be senior vis-a-vis respondents No. 4 and 5.

8. In reply, learned counsel for the petitioner would urge that no test is required as his client was not required to undergo any suitability test for promotion to the post of master craftsman.

9. Such a contention had neither been raised before the learned Tribunal nor in the writ petition.

10. If such a contention was available to the petitioner, undoubtedly, he would have raised the same before the Tribunal particularly when on that ground alone the Original Application filed by him was dismissed.

11. If the petitioner failed to satisfy the eligibility criteria for promotion, he was not entitled thereto.

12. Assuming that the petitioner was senior to the said respondents the same by itself would not clothe him with any right of automatic promotion.

13. In this view of the matter, we are of the opinion that as the petitioner had failed to appear for the test for his promotion as master craftsman, no case has been made out for interfering with the impugned judgment. It is dismissed accordingly without any orders as to cost.